

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Marvin F., ¹)	Case No.: 9:22-cv-03019-JD-MHC
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
Kilolo Kijakazi, Acting Commissioner of)	
Social Security Administration,)	
)	
Defendant.)	
)	

This social security matter is before the Court with the Report and Recommendation of United States Magistrate Judge Molly H. Cherry (“Report and Recommendation” or “Report”), pursuant to Local Civil Rule 83.VII.02 of the District of South Carolina. Plaintiff Marvin F. (“Plaintiff”) brings this action pursuant to Section 405(g) of the Social Security Act, as amended, 42 U.S.C. § 405(g) and 1383(c)(3), seeking judicial review of the Administrative Law Judge’s (ALJ’s) final decision denying his claim for Disability Insurance Benefits (“DIB”) under the Social Security Act.

Plaintiff filed an application for DIB in November 2020, alleging a disability onset beginning July 1, 2020. The state agency responsible for making disability determinations denied his claim initially and on reconsideration. (DE 6-7, pp. 115–18, 121–24.) The Administrative Law Judge issued a written decision denying benefits on October 27, 2021. (DE 6-3, pp. 10-21.) The Appeals Council denied Plaintiff’s request for review, making the ALJ’s decision the

¹ The Committee on Court Administration and Case Management of the Judicial Conference of the United States has recommended that, due to significant privacy concerns in social security cases, federal courts should refer to claimants only by their first names and last initials.

Commissioner's final decision for purposes of judicial review. (DE 6-3, pp. 1–6.) Plaintiff filed this action on May 2, 2022.² (DE 1.)

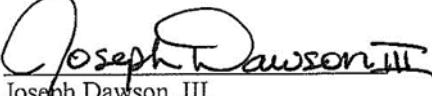
The Magistrate Judge issued the Report and Recommendation on June 12, 2023, recommending that the Commissioner's decision be Affirmed. (DE 25.) The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection has been made, and may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge. 28 U.S.C. § 636(b)(1). However, *de novo* review is unnecessary when a party makes general and conclusory objections without directing a court's attention to a specific error in the Magistrate Judge's proposed findings. See Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a specific objection, the court reviews the report and recommendation only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (citation omitted); see also Tyler v. Wates, 84 F. App'x 289, 290 (4th Cir. 2003) ("A general objection to the entirety of the magistrate judge's report is tantamount to a failure to object.").

Plaintiff filed no objections to the Report and Recommendation. Upon review of the Report and the record in this case, the Court finds that there is no clear error on the face of the

² Plaintiff originally filed his appeal in the U.S. District Court for the Southern District of Texas in May 2022. (DE 1.) However, the case was transferred to this Court in September 2022. (DE 11.) Prior to the transfer, the Record and Answer (DE 4, 5) were filed by the Commissioner, and a Motion for Summary Judgment (DE 8) was filed by Plaintiff. Because the Motion for Summary Judgment was filed while the case was still pending in Texas, it primarily cited case law from the U.S. Court of Appeals for the Fifth Circuit. As this Court is within the Fourth Circuit, the Court mooted the Motion for Summary Judgment and granted Plaintiff leave to file a written brief that adhered to this District's Local Rules, and which cited to relevant case law from the Fourth Circuit. (DE 16.) Plaintiff submitted a brief in support of his claims (DE 19), and the Commissioner submitted a brief in response (DE 23).

record, and therefore, the Court adopts the Report and Recommendation and incorporates it herein by reference, and it is hereby **ORDERED** that the Commissioner's decision is **AFFIRMED**.

AND IT IS SO ORDERED.



Joseph Dawson, III
United States District Judge

August 7, 2023
Florence, South Carolina